

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

C.J.S. AND C.S.	:	CIVIL ACTION
	:	
v.	:	
	:	
BOARD OF DIRECTORS OF CITY	:	
TRUSTS	:	NO. 11-1471

ORDER

AND NOW, this 17th day of August, 2011, upon consideration of Defendant's Motion to Dismiss (Docket No. 5), and all documents filed in connection therewith, after a Hearing held on July 19, 2011, and for the reasons stated in the accompanying Memorandum, **IT IS HEREBY ORDERED** that Defendant's Motion is **WITHDRAWN IN PART, DENIED IN PART** and **GRANTED IN PART** as follows:

1. Defendant's Motion is **WITHDRAWN** insofar as it seeks dismissal of Count One pursuant to Federal Rule of Civil Procedure 12(b)(1).
2. Defendant's Motion is **DENIED** insofar as it seeks dismissal of Count One pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff may proceed to discovery on Count One under a "state-created danger" theory only.
3. Defendant's Motion is **DENIED** insofar as it seeks dismissal of Count Two pursuant to Federal Rule of Civil Procedure 12(b)(1).
4. Defendant's Motion is **GRANTED** insofar as it seeks dismissal of Count Two pursuant to Federal Rule of Civil

Procedure 12(b)(6), and all claims asserted in Count Two are
DISMISSED.

BY THE COURT:

/s/ John R. Padova

John R. Padova